

# **Exhibit G**

UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF GEORGIA

WILHEN HILL BARRIENTOS, )  
ET AL., )  
 )  
Plaintiffs, )  
 ) CIVIL ACTION FILE  
vs. )  
 ) NO: 4:18-CV-00070-CDL  
CORECIVIC, INC., )  
 )  
Defendant. )

DEPOSITION OF JOSEPH V. PENN, M.D.

ATLANTA, GEORGIA

TUESDAY, MARCH 8, 2022

(Reported Remotely)

REPORTED BY: TANYA L. VERHOVEN-PAGE,  
CCR-B-1790

FILE NO. 207281

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March 8, 2022

9:59 a.m.

Deposition of

JOSEPH V. PENN, M.D., held in Atlanta,  
Georgia before Tanya L. Verhoven-Page,  
Certified Court Reporter and Notary Public  
of the State of Georgia.

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APPEARANCES OF COUNSEL

On behalf of the Plaintiffs:

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Montgomery, Alabama 36104

BY: CAITLIN SANDLEY, ESQ.

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(Via Zoom)

On behalf of the Defendant:

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Chandler, Arizona 85226

BY: JACOB LEE, ESQ.  
(Via Zoom)

- - -

## I N D E X

WITNESS: JOSEPH V. PENN, M.D.

## Examination

Page

BY MS. SANDLEY

6

BY MR. LEE

301

BY MS. SANDLEY

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## EXHIBITS:

Plaintiffs'  
(Penn)

Exhibit

Description

Page

Exhibit 1

Expert Report of s  
Joseph V. Penn, M.D.

23

Exhibit 2

Document bearing Bates  
number CCBVA0000333185

40

Exhibit 3

Dr. Penn's report from  
Hughes versus Judd

42

Exhibit 4

Article: Disparities in  
Justice and Care

96

Exhibit 5

Document bearing Bates  
numbers CCBVA0000333500  
through CCBVA0000333513

149

Exhibit 6

Document bearing Bates  
numbers CCBVA0000333514  
through CCBVA0000333520

172

Exhibit 7

Document bearing Bates  
numbers CCBVA0000333451  
through CCBVA0000333486

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## EXHIBITS:

Plaintiffs'  
(Penn)

Exhibit

Description

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Exhibit 8

Document bearing Bates  
numbers CCBVA0000333404  
through CCBVA0000333428 195

Exhibit 10

Expert Report of  
Dr. Pablo Stewart 219

Exhibit 11

Nakamoto Report 257

Exhibit 12

Nakamoto Inspection  
Worksheet 260

Exhibit 13

OIG Report 290

Exhibit 14

Document bearing Bates  
numbers CCBVA0000333201  
through CCBVA0000333380 294

(Plaintiffs' (Penn) Deposition

Exhibit No. 9 was not marked for the  
record.)

1 J. PENN, M.D.

2 objections will be consistent with the  
3 requirements of Rule 30.

4 MS. SANDLEY: All right.

5 BY MS. SANDLEY:

6 Q Dr. Penn, you've been deposed before; is  
7 that right?

8 A Yes.

9 Q And you understand you're giving  
10 testimony under oath today?

11 A Yes.

12 Q And do you understand that you're sworn  
13 and obligated to tell the whole truth today?

14 A Yes.

15 Q Have you been deposed by video conference  
16 like this before?

17 A Yes.

18 Q Okay. So you probably understand that  
19 it's a little bit different than a typical  
20 deposition. I want to just give you a few reminders  
21 to make sure things go smoothly. Okay?

22 First, please make sure to give me a  
23 verbal response when I ask you a question, so the  
24 court reporter can get your answer down, rather than  
25 a head nod, okay?

1 J. PENN, M.D.

2 his initial report recently, but I do recall there  
3 were some photos of different housing areas in the  
4 facility. That's fair.

5 Q Do you know if you were provided all of  
6 the photos that were taken during that tour?

7 A I'm not -- I'm not sure. I don't know.

8 Q Let's look at PDF Page 138. Okay.

9 Dr. Penn, is this the fee schedule that's  
10 included in your report for this case?

11 A Yes.

12 Q And you charge \$500 an hour for document  
13 review, research and consultation; is that correct?

14 A Yes, that's fair.

15 Q And you charge \$1,000 an hour for  
16 testimony at deposition and testimony in court,  
17 correct?

18 A Yes.

19 Q Why do you charge double the rate for  
20 testimony than you do for other work?

21 A That's how I bill. That's my standard  
22 practice.

23 Q Is there any -- do you have any  
24 explanation for why you charge double the rate?

25 A No. I mean, I think the issue of billing



1 J. PENN, M.D.

2 is something that's not really written about or  
3 published. I have talked to colleagues, but I think  
4 I'm very careful about the issue of price fixing or  
5 -- you know, trying to -- it's kind of a sensitive  
6 issue, but no.

7 Frankly, the reason why I charge more is  
8 because there's more involved, time and travel. I  
9 have to take vacation time. My vacation time is very  
10 valuable to me. I'm a state of Texas employee, so I  
11 can't do work on state time. So because of the  
12 amount of time and travel -- I don't bill like when  
13 I'm sitting on an airplane.

14 So that's kind of how I do it. I know  
15 that other experts do it differently. They have a  
16 higher hourly rate and they keep the same rate, but  
17 that's how I -- that's how I do my billing.

18 Q Okay. Well, you do have a separate rate  
19 structure for out-of-town cases that involve travel,  
20 correct?

21 A Correct, yes.

22 Q All right. So for a deposition like this  
23 one today, why could do you bill \$1,000 an hour which  
24 is double your rate for other work?

25 A Sure. That's my standard rate. That's

1 J. PENN, M.D.

2 how -- that's why that is.

3 Q Okay. And you filed a declaration in  
4 this case yesterday stating that you charged the  
5 rates reflected in this rate sheet for three years;  
6 is that correct?

7 A Well, I don't mean to quibble, but I  
8 didn't file it. I'm not an attorney. I believe  
9 Mr. Lee filed it. But yeah, I provided the  
10 information for him and I believe he was the one who  
11 filed it.

12 Q Sure. I can rephrase that.

13 CoreCivic filed a declaration, signed by  
14 you, in this case yesterday; is that correct?

15 A That's fair, yes.

16 Q And you stated in that declaration that  
17 you charged the rates reflected in this rate sheet  
18 that we're looking at right now for three years,  
19 correct?

20 A Yes, that's correct.

21 Q What were your rates before that?

22 A I don't recall. I don't have all of my  
23 rate sheets for the previous years. I believe that  
24 my rates were previously 350 an hour, then they went  
25 up to 400, then they went up to 450 and now they're

1 J. PENN, M.D.

2 at 500.

3 And same thing, I think deposition was  
4 750 an hour and then went up to 850 an hour. So I've  
5 had a gradual increase in my rates due to a variety  
6 of reasons over the last 15, 20 years.

7 Q Okay. And let's scroll down.

8 This rate sheet included in your expert  
9 report submitted in this case is not signed, correct?

10 A That is correct.

11 Q And it doesn't list the name of this  
12 particular case, correct? And we can scroll up.

13 A That's correct.

14 Q The name of the --

15 A I'm sorry. I didn't mean to interrupt  
16 you. I apologize. Say that again, please.

17 Q The name of the case is not on this rate  
18 sheet, correct?

19 A That's correct.

20 Q Are you actually billing CoreCivic the  
21 rates set out in your fee schedule?

22 A Yes.

23 Q But you testified earlier that you  
24 haven't actually submitted an invoice to Struck Love  
25 for this case yet, correct?

1 J. PENN, M.D.

2 A That's correct.

3 Q And you don't know, as we sit here today,  
4 how much time you've billed on this case, correct?

5 A That's fair, yes.

6 Q And this rate sheet says that you require  
7 a \$5,000 retainer. Did CoreCivic or Struck Love pay  
8 you that \$5,000 for this case?

9 A No, they did not.

10 Q Why not?

11 A I think because of the time involved,  
12 like how quickly this was happening. They had a  
13 deadline.

14 And I've done that before, where -- like,  
15 for example, when I worked for the U.S. Attorney's  
16 Office or like in a Department of Justice case or  
17 when I work for a state attorney general's office or  
18 other state or county entity. I've had cases for  
19 Harris County, Montgomery County Attorney's Office,  
20 different county attorneys, I typically -- even  
21 though I have the retainer, that's more for private  
22 law firms. But when it's state or government, I  
23 don't typically -- I basically like waive the  
24 retainer amount.

25 Q Okay. You're aware that Struck Love is a

1 J. PENN, M.D.

2 private law firm, correct?

3 A Yes.

4 Q And you're aware that CoreCivic is a  
5 corporation, correct?

6 A Yes.

7 Q You're aware that there's no government  
8 entity that's a party in this case, correct?

9 A Yeah, to the best of my knowledge, that's  
10 fair.

11 (Plaintiffs' (Penn) Deposition  
12 Exhibit No. 2 was marked for the record.)

13 MS. SANDLEY: Let take a look at  
14 Exhibit 2, and the Bates number is CCBVA  
15 33185. Okay. Vidhi, can we zoom out  
16 just a little bit.

17 BY MS. SANDLEY:

18 Q We're going to mark this as Exhibit 2.  
19 Dr. Penn, have you seen this document  
20 before?

21 A I'm having trouble reading it.

22 Q We can zoom in. I want you to be able to  
23 see the signature at the bottom. Let's zoom in now.

24 So, Dr. Penn, can read it?

25 A I'm sorry. Is there a way to scroll

## D I S C L O S U R E

STATE OF GEORGIA ) DEPOSITION OF:

FULTON COUNTY ) JOSEPH V. PENN, M.D.

Pursuant to Article 8.B of the Rules and Regulations of the Board of Court Reporting of the Judicial Council of Georgia, I make the following disclosure:

I am a Georgia Certified Court Reporter. I am here as a representative of TSG Reporting.

TSG Reporting was contacted by the offices of Southern Poverty Law Center to provide court reporting services for this deposition. TSG Reporting will not be taking this deposition under any contract that is prohibited by O.C.G.A. 15-14-37 (a) and (b).

TSG Reporting has no contract or agreement to provide court reporting services with any party to the case, or any reporter or reporting agency from whom a referral might have been made to cover the deposition.

TSG Reporting will charge its usual and customary rates to all parties in the case, and a financial discount will not be given to any party in this litigation.

Dated: March 18, 2022

*Tanya L. Verhoven-Page*

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Tanya L. Verhoven-Page,  
Certified Court Reporter,  
B-1790.

## C E R T I F I C A T E

STATE OF GEORGIA:

FULTON COUNTY:

I hereby certify that the foregoing deposition was reported, as stated in the caption, and the questions and answers thereto were reduced to written page under my direction, that the preceding pages represent a true and correct transcript of the evidence given by said witness.

I further certify that I am not of kin or counsel to the parties in the case, am not in the regular employ of counsel for any of said parties, nor am I in any way financially interested in the result of said case.

Dated this 18th day of March, 2022.

*Tanya L. Verhoven-Page*

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Tanya L. Verhoven-Page,  
Certified Court Reporter,  
B-1790.